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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,680	03/17/2000	Rolf Jess Jorgensen	56672.000003	2845

1444 7590 03/27/2003

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 03/27/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

☒ Responsive to communication(s) filed on 2/24/03

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1, 2, 5-7, 10-14, 18-20, 25-31, 35 is/are pending in the application.

Of the above claim(s) 1, 2, 5-7, 10-14, 20, 26, 27 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 14, 18, 19, 25, 28-31 & 35 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claim(s) 1, 2, 5-7, 10-14, 18-20, 25-31, 35 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Receipt is acknowledged of RCE, amendment of 1/22/03 was entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5-7, 10-13, 20, 26, 27 and withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

Claims 14, 18, 19, 25, 28, 29-31 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 has no antecedent for Zeolite.

Claims 18, 19, depend on cancelled 17, at claim 19, one would not consider a clay mineral to include zeolite claim 14 recites absorbable citrate form, and phosphate forms; absorption would be enhanced, not blocked.

Claims 14, 18, 19, 25, 28-31 and 35 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is insufficient description in the specification for one in the art to choose a Ca free form of fat, soap, stearate, and gum-one would find these components to incorporate (a) at least in small amounts.

Claims 14, 18, 25, 28, 29, 30, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashmead et al 3184381.

See Formula 14 col. 1, 2: a tripolyphosphate and EDTA are encapsulated, by mixing, with a calcium free membrane material, the instant cellulose, carboxy methyl cellulose, dissolvable below pH 4. The combination prevents incorporation of Ca in the body, as it is a sequestering agent and chelating agent, effective to prevent Ca assimilation (col. 2). Pellet, capsule form is at col. 3, lines 55-60 added ingredient is poly-oxazolidone (last # col. 2). Claim 1 shows a Ca free composition. Cattle are treated (col. 3). The composition meets the instant composition, No patentable weight given to the future intended use.

Claims 14, 25, 28, 29, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Polok et al 5409903.

Oral dosages of zeolites, heavy in Na or K or Ca, as desired (col. 5) incorporation in celluloses or/n microcapsules is shown (col. 6, lines 16-50) with added ingredients.

Claims 14, 18, 19, 25, 28-31, 35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Balkus 5277896.

Composition of coated tablets of celluloses of Zeolites or clays (col. 5, top of 6) for oral dosage are shown, with other additive (col. 4, ) multiple forms of chelate agents, Zeolite and EDTA are at Example 6.

Claims 14, 18, 19, 25, 28, 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Muzinre et al 5912030.

The instant Composition is here: Zeolites coated with gums, with other ingredients (col. 2, line 16-18, col. 5 lines 63-lin 5, and col. 6) including the instant added ingredients.

Applicant's arguments filed on 1/22/03 have been fully considered but they are not persuasive. Applicants' arguments were addressed cryptically at the advisory; they have been considered in forming the rejection now present. The claims are open to wide interpretation – the claim 35 limitation may in fact be necessary to limit the particular forms of encapsulating materials listed in claim 14, absent specific identification these fats, celluloses, etc. Further, review suggests in fact, the composition are claimed, and thus the references cited, no weight given to hypocalcaemia, are considered as meeting the instant claims, and those without antecedent, presumably referred to claim 14.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703)308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.